

AG Contract No.: KR 06-0696TRN
AZ ADOT ECS File No.: JPA 04-149
Project No.: S 999 SW 000
Project: Bridge Maintenance
TRACS No.: H4411 01C/ 02C
Budget Source Item No.: 714XX (Bridge
Inspection & Repair Item No. for the Fiscal Year
invoiced)

BRIDGE MAINTENANCE

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE STATE OF CALIFORNIA

This Agreement is entered into effective December 29th, 2006 (to **SUPERSEDE JPA 87-082, executed 26 August 1987, and filed with Arizona Secretary of State under No. 12312**), pursuant to the authority granted under Arizona Revised Statutes § 11-951 through § 11-954, as amended and California Streets and Highways Code section 100.6, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION ("ARIZONA"), and the STATE OF CALIFORNIA, acting by and through its DEPARTMENT OF TRANSPORTATION ("CALIFORNIA").

I. RECITALS

1. ARIZONA is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of ARIZONA.
2. CALIFORNIA is empowered by Streets and Highways Code § 100.6 to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of CALIFORNIA.
3. CALIFORNIA and ARIZONA (collectively the "PARTIES") mutually agree to share in the cost for maintenance responsibilities of their jointly owned Colorado River Bridges ("BRIDGES"), as more fully described under Exhibit "A," attached hereto and made a part hereof. Maintenance will include, but is not limited to: routine maintenance, inspection, repair and/or design repair activities and overload permit review, hereinafter referred to as "MAINTENANCE ACTIVITIES."
4. The PARTIES agree CALIFORNIA will be the lead agency for MAINTENANCE ACTIVITIES for the BRIDGES identified on Exhibit A. Both PARTIES agree to participate equally in the total actual costs incurred for these MAINTENANCE ACTIVITIES. The purpose of this Agreement is to define each party's responsibility, as it relates to the said MAINTENANCE ACTIVITIES.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 28635
Filed with the Secretary of State
Date Filed: 12/29/06
Janice K. Shivers
Secretary of State
By: [Signature]

II. SCOPE OF WORK**1. CALIFORNIA SHALL:**

a. Be responsible for fifty percent (50%) of the total MAINTENANCE ACTIVITIES costs incurred pursuant to this Agreement.

b. On an annual basis, CALIFORNIA shall submit to ARIZONA an estimate of its annual costs to perform said MAINTENANCE ACTIVITIES for that fiscal year ("FY"), together with an invoice for half that sum to be paid as a deposit by ARIZONA, within thirty (30) days of receipt. That will be followed at the end of that FY by a detailed invoice identifying the appropriate BRIDGE MAINTENANCE ACTIVITIES using the Arizona Department of Transportation (ADOT) Progress Payment Report Form indicating total actual costs expended by CALIFORNIA for MAINTENANCE ACTIVITIES. Each detailed invoice(s) shall evidence the work performed and include related supporting documentation. Electronic forms can be requested through the Joint Project Administration, at the address provided under Section III, Paragraph 16. CALIFORNIA shall then provide ARIZONA with a full list of numerical item codes which will be used in the billing process and provide a full description of work performed under each of those items for ARIZONA's benefit.

At the end of each FY, CALIFORNIA will either refund any unexpended deposit of the advance payment made by ARIZONA or invoice ARIZONA for the unpaid remaining costs incurred by and due to CALIFORNIA.

The cost of any work referred to herein shall include all direct and indirect costs that shall include functional and administrative overhead assessment attributable to such MAINTENANCE ACTIVITIES, applied in accordance with CALIFORNIA's standard accounting, including any CALIFORNIA rate revisions.

c. Conduct inspections of said BRIDGES at predetermined intervals according to National Bridge Inspection Standards (NBIS). ARIZONA is to be notified at least two (2) weeks in advance of each inspection in order that ARIZONA may have representative(s) present to participate if desired. The total costs of routine and in-depth inspections per BRIDGE shall not exceed \$10,000. ARIZONA shall bear fifty percent (50%) of the scheduled bridge inspections costs.

d. Prepare separate bridge inspection report documents for each individual BRIDGE and forward copies of the same to ARIZONA within ninety (90) days of completion of field inspection.

e. Be responsible to perform MAINTENANCE ACTIVITIES as necessary and as mutually agreed upon in accordance with Paragraphs 6 through 8 of Section III, hereinbelow.

f. Be responsible for contractor claims for extra compensation due to delays or other causes solely attributable to CALIFORNIA.

2. ARIZONA shall:

a. Advance to CALIFORNIA, within thirty (30) days following receipt and review of CALIFORNIA's detailed estimate at the commencement of each FY, the invoiced deposit of fifty percent (50%) of those total MAINTENANCE ACTIVITIES costs anticipated by CALIFORNIA for that FY.

b. Within thirty (30) days after receipt of detailed invoice at the end of a FY for total actual MAINTENANCE ACTIVITIES from CALIFORNIA, review each invoice and the appropriate supporting documentation for these MAINTENANCE ACTIVITIES, and if said invoice conforms to the terms of this Agreement, reimburse CALIFORNIA for the remainder of ARIZONA'S share of CALIFORNIA's total actual

cost of MAINTENANCE ACTIVITIES actually performed pursuant to this Agreement if said MAINTENANCE ACTIVITIES costs exceed the deposit at the start of that FY.

c. ARIZONA will also bear fifty percent (50%) of the total scheduled BRIDGE inspection costs to be included in that final FY detailed invoice and will receive all related inspection documents from CALIFORNIA.

d. Be responsible for contractor claims for extra compensation due to delays or other causes attributable to ARIZONA.

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall supersede the previous maintenance agreement JPA 87-82 between the PARTIES affecting the BRIDGES as identified in Exhibit "A."

2. Indemnifications:

a. Neither CALIFORNIA, nor any of its officers or employees thereof, is responsible for any damage or liability occurring by reasons of anything done or omitted by ARIZONA under or in connection with any work, authority or jurisdiction delegated to ARIZONA under this Agreement. It is understood and agreed that ARIZONA shall fully defend, indemnify and save harmless CALIFORNIA and all of its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury occurring by reason of anything done or omitted to be done by ARIZONA under or in connection with any work, authority or jurisdiction delegated to ARIZONA under this Agreement.

b. Neither ARIZONA, nor any of its officers or employees thereof, is responsible for any damage or liability occurring by reasons of anything done or omitted by CALIFORNIA under or in connection with any work, authority or jurisdiction delegated to CALIFORNIA under this Agreement. It is understood and agreed that CALIFORNIA shall fully defend, indemnify and save harmless ARIZONA and all of its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury occurring by reason of anything done or omitted to be done by CALIFORNIA under or in connection with any work, authority or jurisdiction delegated to CALIFORNIA under this Agreement.

3. All obligations of ARIZONA under the terms of this Agreement are subject to the appropriation and allocation of resources by the Arizona Legislature and/or the Arizona State Transportation Board.

4. All obligations of CALIFORNIA under the terms of this Agreement are subject to the appropriation of resources by the California Legislature and allocation of resources by the California Transportation Commission.

5. Both CALIFORNIA and ARIZONA are jointly and severally liable for contractor claims for extra compensation due to delays or other reasons which cannot be solely attributable to the fault of either of the PARTIES.

6. If ARIZONA advises CALIFORNIA within thirty (30) days of receipt of any bridge inspection report documents of an objection or suggestion concerning any proposed work recommended in said Report documents, ARIZONA and CALIFORNIA shall make a good-faith endeavor to arrive at a mutually agreeable course of action.

7. In the absence of an objection or suggestion concerning work recommended in a bridge inspection report documents as stipulated in paragraph 6 above, and where the estimated cost of all said work does not exceed the sum of ten thousand dollars (**\$10,000.00**), CALIFORNIA will proceed with such work.

8. Where the estimated cost of all work recommended in a bridge inspection report document exceeds the sum of ten thousand dollars (**\$10,000.00**), then such work shall **not be** performed until ARIZONA and CALIFORNIA have agreed in writing to a mutually acceptable course of action and have funded said action.

9. Nothing in the provisions of this Agreement is intended to create duties or obligations or rights in third PARTIES that are not PARTIES to this Agreement or affect the legal liability of either party to the Agreement by imposing any standard of care different from the standard of care imposed by law, for operation and maintaining in a condition safe for the public, such portions of said BRIDGES as lie within the PARTIES' respective jurisdictional limits.

10. This Agreement shall become effective upon filing with the Arizona Secretary of State.

11. This Agreement may be cancelled by ARIZONA in accordance with Arizona Revised Statutes § 38-511 and it may be canceled by CALIFORNIA by giving a written notice of such cancellation to ARIZONA per Article III, Paragraph 2, provided the canceling party compensates other party for all resources expended by it under this Agreement prior to the termination of the Agreement.

12. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

13. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The PARTIES to this Agreement shall comply, to the extent permissible under that PARTY's applicable law, with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination."

14. Non-Availability of Funds:

(a) Every payment obligation of ARIZONA under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by ARIZONA at the end of the period for which the funds are available. No liability shall accrue to ARIZONA in the event this provision is exercised as a result of termination under this paragraph.

(b) Every payment obligation of CALIFORNIA under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by CALIFORNIA at the end of the period for which the funds are available. No liability shall accrue to CALIFORNIA in the event this provision is exercised as a result of termination under this paragraph.

15. In the event of any controversy which may arise out of this Agreement, the PARTIES hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

16. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

California Department of Transportation
ATTN: Director
1120 N Street
Sacramento, CA 95814
TEL: (916) 654 2630

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue Mail Drop 616E
Phoenix, AZ 85007
FAX: (602) 712 7424

For Caltrans' Bridges No. 54-1000; 56-08

California Department of Transportation
ATTN: Kenneth Vo
100 South Main Street
Los Angeles, CA 90012
TEL: (213) 897 0883

For Technical Reference Contact:

Arizona Department of Transportation
ATTN: Bridge Operations
205 S. 17th Avenue, Room 269
Mail Drop 635E
Phoenix, AZ 85007
TEL: (602) 712 7481
FAX: (602) 712 3056

For Caltrans Bridge # 54-415

California Department of Transportation
ATTN: Edward Nahm
100 South Main Street
Los Angeles, CA 90012
TEL: (213) 897 2925

For Bridge Maintenance/Repairs Contact:

Arizona Department of Transportation
Yuma District Office
Bridges Nos. 191, 619, 486, 1700, 1701
2243 E. Gila Ridge Road, Mail Drop Y200
Yuma, AZ 85365
TEL: (928) 317 2100
FAX: (928) 317 2107

For District 11- Caltrans Bridges Nos. 58-286 and 58-312L and R

California Department of Transportation
ATTN: Andy Hsu
100 South Main Street
Los Angeles, CA 90012
TEL: (213) 897 0883

For Arizona Bridge No. 957 Only

Arizona Department of Transportation
Kingman District Office
3660 E. Andy Devine Avenue
Mail Drop K600
Kingman, AZ 86401
TEL: (928) 681 6020
FAX: (928) 757 1269

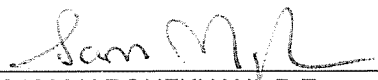
17. Pursuant to Arizona revised Statutes § 11-952 (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the PARTIES are authorized under the laws of CALIFORNIA and ARIZONA to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the PARTIES have executed this Agreement effective the day and year first above written.


STATE OF CALIFORNIA
Department of Transportation

By 
WILL KEMPTON
Director

STATE OF ARIZONA
Department of Transportation

By 
SAM MAROUFKHANI, P.E.
Deputy State Engineer / Development

ATTEST

By 
Attorney

APPROVAL RECOMMENDED
ARIZONA – Bridge Group

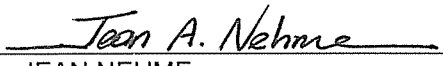

By 
JEAN NEHME
State Bridge Engineer

EXHIBIT "A"

ARIZONA Bridge Number	Bridge Description	CALIFORNIA Bridge Number
957	On Interstate Route 40 near Topock	54-415
191	On Route 62(California) / 95(Arizona) near Parker	54-1000
619	On Interstate Route 10 near Blythe	56-08
486	On Winterhaven Drive / 4 th Avenue at Yuma	58-286
1700 and 1701	On Interstate Route 8 near Yuma (Two Structures)	58-312R and 58-312L

<p>TERRY GODDARD Attorney General</p>	<p> OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan Davis@azag.gov</p>
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INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR06-0696TRN (**JPA 04-149**), an Agreement between public agencies, i.e., The State of Arizona and The State of California, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: December 21, 2006

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:992344
Attachment

ATTORNEY APPROVAL FORM FOR THE STATE OF CALIFORNIA

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the STATE OF CALIFORNIA, acting by and through its DEPARTMENT OF TRANSPORTATION (CalTrans), an Agreement among public agencies, and declare this Agreement to be in proper form and within the powers and authority granted to CALTRANS under the laws of the State of California.

No opinion is expressed as to the authority of the State of Arizona to enter into this Agreement.

DATED this 12th day of December, 2006.

A handwritten signature in cursive script, appearing to read "M. A. S.", is written over a horizontal line.

CALTRANS Attorney